

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: WWC LICENSE LLC, d.b.a. CellularOne	DOCKET NO. 199 IAC 39.2(4)
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**ORDER DOCKETING REQUEST, GRANTING PETITIONS TO INTERVENE,
AND ESTABLISHING PROCEDURAL SCHEDULE**

(Issued June 22, 2000)

On April 28, 2000, WWC License LLC, d.b.a. CellularOne (Western Wireless), filed a "Request For Universal Service Eligible Carrier Status in Iowa." Western Wireless states that it is a "telecommunications carrier" as defined in 47 U.S.C. § 153(49). Western Wireless also states it is authorized by the Federal Communications Commission (FCC) to provide commercial mobile radio services (CMRS) under the brand name "CellularOne™" in certain parts of Iowa, as described in Attachments A through C, filed with the request. Western Wireless also filed an affidavit supporting its request for eligible telecommunications carrier (ETC) status pursuant to 47 U.S.C. § 214(e) and 199 IAC 39.

Western Wireless intends to offer its universal service package as a "wireless local loop." A wireless local loop involves the installation of a wireless access unit at a customer's location to transmit the signal to the nearest cellular telephone tower. Western Wireless states that the wireless local loop technology functions as a replacement for the last mile of copper wire of the incumbent local exchange carrier

(LEC): "A wireless access unit is more powerful than a conventional cellular handset, simulates dial-tone, and allows customers to plug in fax machines, answering machines, or other peripheral devices." (Affidavit at p. 7.)

Western Wireless briefly addresses each of the eligibility items outlined in 199 IAC 39.2(1), stating:

- a. Western Wireless meets the FCC's and the Utilities Board's (Board) requirements for voice grade access to the public switched telephone network.
- b. Western Wireless will comply with any and all minimum local usage requirements adopted by the FCC. Western Wireless also states it will offer unlimited local usage as part of one of its universal service offerings.
- c. Western Wireless will be using out-of-band signaling and in-band multi-frequency signaling that is functionally equivalent to dual-tone, multi-frequency (DTMF) signaling required by 199 IAC 32.2(1)"c" and 47 C.F.R. § 54.101(a)(3).
- d. Western Wireless meets the requirement of single-party service by providing a dedicated message path for the length of all customer calls.
- e. Western Wireless currently provides customers with access to 911 emergency services and is ready to provide wireless E911 (enhanced 911 which includes Automatic Numbering Information and Automatic Location Information) once the public emergency service providers have the ability to

receive that information. Rollout of wireless E911 service in Iowa is anticipated in the fall of 2000.

f. Western Wireless will provide access to operator services provided by Western Wireless or other entities such as LECs or interexchange carriers (IXCs).

g. Western Wireless will provide access to interexchange services through arrangements with several IXCs. Customers will also be able to use access codes to reach IXCs. Western Wireless states that "the FCC does not include equal access to interexchange service among services supported by universal service mechanisms," citing the FCC's Universal Service Order,

¶ 78. (Affidavit at p. 5.)

h. Western Wireless will provide customers with access to directory assistance by dialing "411" or "555-1212."

i. Western Wireless will provide toll blocking for qualified low-income consumers. Western Wireless points out that the FCC no longer requires both toll blocking and toll limitation and that the Board recognized this change in Re: FiberComm L.C., Docket No. 199 IAC 39.2, "Order Designating Eligible Telecommunications Status" (issued July 30, 1999).

Western Wireless states that for a fixed monthly charge it will offer consumers the core services supported by universal service mechanisms with unlimited local usage, an expanded local calling area larger than that offered by the incumbent LEC,

a per minute charge for long distance calls, and optional features and services such as voice mail, caller-ID, call waiting, call forwarding, and conference calling.

On May 18, 2000, U S WEST Communications, Inc. (U S West), filed a petition to intervene and asked the Board to docket Western Wireless's application and establish a procedural schedule, including a hearing, to resolve certain questions and issues. In support of its petition to intervene, U S West states that it has more than one million access lines in Iowa, which is more than twice the number of the next largest provider. U S West states it "has a vital interest in the Western Wireless application because of the impact of eligible carrier funds upon the price of exchange lines in Iowa." (Petition at p. 1.)

U S West describes Western Wireless's stated plans to offer "unlimited local usage as part of one universal service offering" (Western Wireless p. 3) and "another universal service offering ... with a limited number of minutes of usage," as vague statements that afford no basis for determining whether the application should be granted. On local service rates, U S West quotes Western Wireless's statement that it "has not finalized its pricing for the universal service offerings, but rates will be comparable to if not less than, the local service rates charged by the incumbent LEC." (Western Wireless affidavit at p. 13.) U S West believes these are vague promises and a hearing would allow the Board to determine if Western Wireless's prices and terms and conditions would be harmful to Iowa users when compared to the rates and services offered by incumbent LECs.

U S West also points to Western Wireless's attachment defining its coverage area. In that attachment, Western Wireless states it will cover the "entire wire centers" in some locations and the "entire study area" in other locations. U S West asserts these representations are unclear and argues that a hearing would allow Western Wireless to explain the coverage issue.

U S West also states Western Wireless is silent as to whether it would agree to serve all customers within the service area, as a carrier of last resort, if another eligible telecommunications carrier relinquishes its eligible carrier status.

Finally, U S West states that the concerns it has listed in its petition are only illustrative, but not exhaustive, of the myriad of issues raised but not addressed by the Application.

On June 2, 2000, Western Wireless filed a response to U S West's petition to intervene. Western Wireless first argues that U S West should not be permitted to intervene because it has not identified any "valid justiciable interest." Western Wireless asserts it "has clearly shown how it meets each requirement described in 47 U.S.C. § 214(e) and 199 I.A.C. ch. 39." Specifically, Western Wireless argues it is not required to specify the rates, terms, and conditions that will apply to its proposed universal service offering and that competition can be relied upon to determine these matters.

Western Wireless also argues that it should not be required to specify its local calling areas because "the marketplace will determine whether customers find

Western Wireless' calling areas to be beneficial." Western Wireless further argues that its proposed service areas are sufficiently clear, in that Western Wireless seeks designation in the study areas of rural LECs but in specified wire centers of U S West, as provided by 47 U.S.C. § 214(e)(5), 47 C.F.R. § 54.201.10, and 199 IAC 39.2(5). Finally, Western Wireless asserts it has facilities currently in place to fulfill its universal service offerings.

On June 14, 2000, the Iowa Telecommunications Association (ITA) filed a petition to intervene. ITA states it is a trade association representing all of the incumbent telephone utilities in Iowa providing local landline telephone service. ITA notes that the Western Wireless application is the first request of a wireless carrier for ETC status in Iowa. ITA also notes that the Board's rules appear to provide that a carrier can only be designated as an ETC if it provides the required services, but the affidavit provided by Western Wireless in support of its request is unclear as to whether the required services are actually being offered or are only contemplated to be offered. ITA argues that, since there are factual issues to be clarified, the Western Wireless request should be docketed for review and hearing.

Finally, on June 16, 2000, U S West filed a reply to the response of Western Wireless, expanding on the arguments in the U S West petition.

The Board finds U S West and ITA have made allegations that require the Board hold a hearing in this matter. However, the Board is concerned that this application should not be unduly delayed if the allegations of U S West and ITA

prove to be without merit. Accordingly, the Board will docket Western Wireless's request, grant intervention to U S West and ITA, and establish the shortest possible procedural schedule for this docket.

IT IS THEREFORE ORDERED:

1. The request for universal service eligible carrier status filed by WWC License LLC, d.b.a. CellularOne, on April 28, 2000, is docketed for investigation as Docket No. 199 IAC 39.2(4).
2. The petitions to intervene filed by U S WEST Communications, Inc., on May 18, 2000, and the Iowa Telecommunications Association on June 14, 2000, are granted.
3. The following procedural schedule is established:
 - a. Western Wireless shall file prepared direct testimony, with underlying workpapers and exhibits, on or before July 14, 2000, in support of its request for universal service eligible carrier status in Iowa.
 - b. U S West, ITA, Consumer Advocate, and any other intervenors shall file prepared direct testimony, with underlying workpapers and exhibits, on or before August 4, 2000. If a party refers to a data request in its prepared testimony, the data request shall be filed as an exhibit.
 - c. Western Wireless shall file its rebuttal testimony, with underlying workpapers and exhibits, on or before August 18, 2000.

d. The parties shall file a joint statement of the issues on or before September 1, 2000.

e. Any parties that choose to file a prehearing brief may do so on or before September 1, 2000.

f. A hearing shall be held beginning at 10 a.m. on September 13, 2000, for the purpose of receiving testimony and the cross-examination of all testimony. The hearing shall be held in the Board's Hearing Room at 350 Maple Street, Des Moines, Iowa. The parties shall appear one-half hour prior to the time of the hearing for the purpose of marking exhibits. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

g. The parties may file simultaneous initial briefs on or before September 25, 2000.

h. All parties who filed initial briefs may file reply briefs on or before October 4, 2000.

4. In the absence of objection, all underlying workpapers shall become a part of the evidentiary record of these proceedings at the time the related testimony and exhibits are entered into the record.

5. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination which have not been previously filed shall

become a part of the evidentiary record of these proceedings. The party making reference to the data request shall file an original and six copies of the data request and response with the Board at the earliest possible time.

6. In the absence of objection, when the Board has called for further evidence on any issue and the evidence is filed after the close of the hearing, the evidentiary record will be reopened and the evidence will become part of the record five days after the evidence is filed with the Board. All evidence filed pursuant to this paragraph shall be filed no later than seven days after the close of the hearing in this proceeding.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr.
Executive Secretary

/s/ Diane Munns

Dated at Des Moines, Iowa, this 22nd day of June, 2000.